

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC, 20554

In the Matter of)
Creation of a Low)
Power Radio)
Service)

MB Docket No. 99-25

My name is Harold Kozlowski. I am the president of Highland Community Broadcasting on Hooksett, New Hampshire. We are the operators and licensees of WCNH-LP in Concord, New Hampshire. I recently had the privilege of addressing the Commissioners as a panelist at the FCC's LPFM Day.

While Highland Community Broadcasting has its own thoughts and opinions on LPFM, we want to recognize the work of Rich Eyre, operator of RECNET.COM, a website that has been an invaluable resource to the LPFM community. Mr. Eyre has made representations to the FCC before, including a petition on Broadcast Localism (Docket #04-233) that includes many excellent ideas regarding LPFMs and their relationship to full-power stations and translators. We endorse many of Mr. Eyre's positions in Docket 04-233 as they apply to LPFMs.

CHANNEL-SPACING VS. CONTOURS

It seems absurd that two technically identical FM services, LPFM and translators, operate with different allocation rules, with one service, translators, enjoying a greater degree of latitude.

The FCC, when creating the LPFM service, was thinking about citizens who may be less technically knowledgeable when it decided to use straight mileage separation tables for LPFM. Unfortunately, the result was shutting out LPFMs in areas that were later flooded with translator applications.

Despite the outcry of LPFM opponents about potential interference, it's curious that after many years of service, we have not heard similar complaints about translators. One could assume that the current translator separation requirements are quite adequate in preventing harmful interference to full-power broadcasters.

At LPFM day at the FCC, I testified about the 1st adjacent interference WCNH-LP receives from super-powered WHOM, despite the fact we meet all mileage separations. WCNH-LP would benefit greatly from the use of contour separations and terrain shading, allowing us to relocate to a quieter area of the FM dial.

Highland Community Broadcasting also endorses raising the maximum allowable ERP for LPFM to 250 watts, similar to translators. The FCC should also consider eliminating separate 100-watt and 10-watt LPFM classes. Using contour separations would make such distinctions moot. LPFMs should be allowed to operate at any power, up to 250 watts, and with any type of antenna, including directional, as long as such operation meets all engineering requirements.

One may argue that using contours to allocate LPFMs adds a financial hardship to prospective licensees, making the use of consulting engineers a necessity. Highland Community Broadcasting suggests that applicants be given the option of using mileage separations or contour protection when applying for an LPFM.

PRIMARY VS. SECONDARY STATUS

LPFMs deserve to have primary status. Full-power broadcasters also deserve to be able to maximize their facilities. No LPFM should be knocked off the air by an encroaching full-power FM or translator. However there are ways to ensure all parties are given consideration.

Highland Community Broadcasting feels it would be fair to have any full-power broadcaster that wishes to relocate or upgrade a facility that displaces an LPFM be required to cover the expense of relocating the LPFM to a new transmitter location and/or new frequency. The new LPFM facility should offer similar or better coverage than the original LPFM facility. No payments should be allowed other than legitimate expenses of relocating the LPFM facility. Contour protection rules with the option of using a directional antenna could be used.

This position is similar to one offered by Mr. Rich Eyre of RECNET.COM in Docket #04-233, referring to "Limited Primary Status."

As for status over translators, LPFMs should have preference over distant translators, Highland Community Broadcasting also agrees with the points made by Rich Eyre of RECNET.COM in his Broadcast Localsim petition #04-233 regarding "Distant Translators" which Mr. Eyre describes as: "those where the primary station is at least 400km away and in a different state."

We agree with Mr. Eyre's position that: "LPFM stations should have spectrum priority over distant translators and therefore should be able to displace a distant translator if the LPFM can make a showing that no other channel is available for LPFM use."

No translator would be allowed to displace an LPFM

TRANSFERRING OF LPFM LICENSES

While community groups like Highland Community Broadcasting take the responsibility of operating our LPFM stations very seriously, there is no way to look into the future and guarantee that circumstances would not change that could hinder their ability to function. Over time, key members leave, retire, move away, or pass on.

It seems absurd to have to shut down a thriving LPFM simply because of a change of circumstance within its license holder, especially if there are other qualified groups willing to assume operation.

Highland Community Broadcasting endorses allowing LPFM licenses to be transferred to other qualified local parties for NO monetary consideration. However, the FCC should allow groups to receive fair value for physical station assets like transmitters, studio equipment, etc. as part of such a transfer, as long as they can be demonstrated as legitimate.

OWNERSHIP LIMITS

Highland Community Broadcasting endorses allowing qualified local groups to be able to hold a modest number of local LPFM licenses. A qualified local group should be allowed, through application or transfer of license, hold up to 5 LPFM licenses providing: 1) no other qualified local group with fewer or no licenses applies for the same facility. 2) All LPFM stations be within 25 miles of the stated headquarters of the group.

PROGRAMMING EXEMPTION

Highland Community Broadcasting endorses requiring LPFM license holders to offer significant local programming on their stations. However there are rare situations where programming from a national service fills a compelling local need.

Certain formats, such as Jazz and Classical music, are difficult to program and maintain without significant resources. Both formats require vast knowledge and libraries to create programs that the local community would be enhanced by.

There are several excellent program services that offer Jazz and Classical music that are distributed via satellite. These services offer a level of programming that would be difficult, if not impossible, to duplicate on the local level. Even though programming from a satellite provider runs counter to the spirit and mission of LPFM as a service, we feel that a compelling public interest is served by offering these two "endangered" formats.

Highland Community Broadcasting proposes LPFMs that program Jazz and Classical music for more than 90% of their broadcast schedule, be exempt from local programming requirements.

IN CONCLUSION

Highland Community Broadcasting appreciates the opportunity to offer suggestions regarding the LPFM service. We also appreciate the hard work of the Commission staff.